

**TOWN COUNCIL
REGULAR MEETING
APRIL 4, 2001**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:14 p.m. by Mayor Venis and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present were Mayor Venis, Vice-Mayor Paul and Councilmembers Clark, Starkey and Truex. Also present were Town Administrator Willi, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

3. OPEN PUBLIC MEETING

Mayor Venis advised the speakers of the Open Public Meeting procedures.

Norm Blanco, 2080 SW 72 Avenue, representing the homeowners of Nova Drive, congratulated the Councilmembers on their election. He took issue with the comments made by Planning and Zoning Boardmember Larry Davis at the Board's last meeting regarding the Publix on Nova Drive. Mr. Blanco stated that Mr. Davis was the only dissenting vote on this issue and the residents on Nova Drive should be shown consideration.

Bruce Novak congratulated the new Councilmembers and was pleased to see progress on the 61st Avenue Park. He offered best wishes to all.

Mayor Venis advised that the discussion on the cell tower would be heard after the presentations.

Jay Stahl praised the Town's new website for the Town and congratulated the new Councilmembers and Vice-Mayor Paul. He spoke about the network of equestrian trails throughout the Town, which was highly regarded in Broward County. Mr. Stahl pointed out that residents had paid for this and continued to pay, although he felt that a large percentage of those using the trails were not Town residents. He proposed an equestrian trail use permit for non-residents and a need for residents to carry identification while riding to prove residency. Mr. Stahl added that escalating fines should be imposed for offenses.

Tom Green, 1800 SW 116 Avenue, felt the recent canal clean-up was a great event and was pleased to work with Councilmember Starkey and Vice-Mayor Paul in a Central Broward Drainage District boat working on the canal. He mentioned that he would like to work with the Town to provide community service projects for his students, which would earn them extra credit.

Dan Pignato congratulated the Councilmembers who were elected. He thanked the residents for coming out to vote and for supporting him. He asked Council to keep the unique rural lifestyle of Davie, take care of the Town's children, solve the school boundary problems, finish and maintain parks, don't raise the taxes, keep the rodeo, work to solve the drainage problems and the Sunrise water crisis.

Sandra Switzer congratulated Councilmembers and proposed a bulletin board on the website for the purpose of residents sharing home repair service providers. This would allow everyone to benefit from businesses that provide good, reliable service to their customers as these services were evaluated and the names were shared.

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Lloyd Phillips, 14220 SW 29 Court, complained about the Police Department not taking action on information that was given by him. He spoke about an annual party given by neighbors during which police officers in the past had protected the neighbor's actions. Mr. Phillips advised that this party was coming up again soon and asked that Council step in and not let the disturbances continue. He accused police officers of concealing evidence and spoke of baggies with white residue that were at the Police Department and had not been investigated. Mr. Phillips also advised that his dog had been poisoned. Mayor Venis asked Mr. Phillips to give the information to Town Clerk Muniz and asked Mr. Willi to set up a meeting to go over this information.

Frank Ragonese, 1401 SW 136 Avenue, spoke about the proposed traffic light at the corner of 14th and 136th. He referred to alleged complaints from residents in the area that a light was needed and stated that he lived near this corner and a light was definitely not needed. Mr. Ragonese added that none of the residents wanted to see a light, as students could try to run a yellow light, causing a dangerous situation. He added that a stop sign would be helpful and offered to work with Mr. Willi on this problem, adding that he could present a petition if it was needed.

4. PRESENTATIONS

4.1 Fair Housing Month - U.S. HUD and HOPE, Inc.

Shirley Taylor-Prakelt, Housing and Community Development Director, spoke on the Town's commitment to fair housing programs and the partnerships with the US Department of HUD and HOPE, Inc., a private non-profit fair housing and enforcement agency. She spoke about the literature, which had been widely distributed advising of the consequences of discrimination in providing housing and of the programs in support of fair housing.

Bill Thompson, Director of HOPE, Inc., received the proclamation and thanked the Town for this three-year partnership. He also thanked Ms. Taylor-Prakelt for the part she played in the success of these programs.

4.2 Waterway Clean-Up Awards

Mayor Venis presented a plaque to Central Broward Water Control District Commissioner Wayne Arnold and spoke about the recent event, which involved 550 residents. He thanked Mr. Arnold for his generous contribution of food and refreshments and presented a certificate to his manager, Hudson. Mr. Arnold thanked the Town for its participation and for their contribution to provide for the drainage project in the Town.

4.3 Water Restrictions

Mike Bender spoke about the recent Water Management meeting he attended and suggested that the Town come up with a conservation plan. He advised that during the recent rainfall, 94% of the water was captured and sent back into the conservation areas. Mr. Bender explained the educational programs that the County was implementing and the increased enforcement planned for the current restrictions. The Management decided to implement Restricted Phase II restrictions, instead of Phase III.

Mayor Venis suggested that the Davie Water and Environmental Advisory Board develop a plan for the Town. Councilmember Starkey stated that the County had adopted a program called "Every Drop Counts."

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Utilities Director Daniel Colabella advised that residents could hand-water their lawns between 5:00 p.m. and 7:00 p.m., except on Fridays. He indicated that 148 complaints had been registered and 370 compliance letters had been sent out.

4.4 Upcoming Special Events - Bonnie Stafiej and Dennis Andresky

Bonnie Stafiej, Special Projects Director, advised that upcoming events included: Annual Bull Riding Competition; Boys and Girls Club Fanfest Concert (April 8th); Spring Egg Hunt (April 14th); concert in the park (April 22nd); Actors Community Theater Group "Cards on the Table" (April 27th - 29th); and Name the Davie Transit System contest (deadline May 11th).

Dennis Andresky, Parks and Recreation Director, announced that upcoming events included: adults and seniors country picnic would be held on April 27th. He advised that the following summer programs were being offered: Pine Island Adventure Camp; Summer Daze Program; and Extreme Teen Program. Mr. Andresky added that summer job openings would begin April 16.

10.4 Mayor Venis swore in those who would be speaking on this item. Mr. Kiar explained the rules concerning the presentation of evidence.

Development Services Director Mark Kutney explained the request and advised that staff had a great concern that operating under Old Code could be a liability for the Town which needed to be corrected. He cautioned Council to consider the request simply as a rezoning, not an application for a telecommunications tower, which would come before Council as a special permit request. Mr. Kutney advised that if this property was not rezoned this parcel would not have any zoning regulations on the books. He advised that this rezoning was appropriate and must stand on its own merits.

Susan Trevarthen, representing the petitioner, urged Council to follow Mr. Kutney's recommendations and advised that the rezoning would permit the use of a tower, as it was a permitted use in any commercial zoning district. She added that it was the applicant's position that the tower was not relevant to the issue and asked for a standing objection as residents spoke in reference to it.

Town counsel Tom Connick explained that the Planning and Zoning Division would not permit the applicant to put in a tower under the old zoning district and a special permit was not an option. During this consideration for new zoning, it was brought out that the property owner would continue his business without being affected as it was not required for the existing business, which was why the Board voted to deny. The rezoning was for the purpose to eventually install the cell tower. Ms. Trevarthen objected to Mr. Connick reporting on the reasons and rationale of the Board and added that the applicant would gain an additional use of his property due to this rezoning.

David Mancuda, representing the Arrowhead Homeowner's Association, explained that his client opposed this request. He referred to the cell tower as this would be the outcome of the rezoning and described the distance between the homes and the tower site. He added that this new Code was not staff driven, but initiated by the applicant. Mr. Mancuda referred to the B-2 Code, which was "intended to provide for a business area for shopping and limited service needs..." and felt that a bowling alley did not fall into this description. He cited Code Section 12-34(G)(1) which stated that communications

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transmitting structures were limited to a maximum height of 25 feet and felt that was a long standing ordinance and should take precedence. Mr. Mancuda went over the criteria used by staff to grant any rezoning request and pointed out that this application would not meet any of these criteria. He felt it was owner initiated, calling it "spot zoning" and explained the State rules regarding spot zoning.

Mr. Kutney stated that Mr. Mancuda was incorrect, explaining that there were two zones permitting bowling alleys - B-2 and B-3. Mr. Kutney indicated that B-2 was recommended by staff.

Rod Berg, 50 Magood Lane, President of Valencia Village, agreed that this zoning was a spot zoning to benefit one individual. His homeowner's association opposed this request due to its close proximity to homes.

Lee Weissman, 8060 SW 18 Place, submitted a photograph showing the area from the bowling alley, the retaining wall and the windows of homes, which would be looking at the tower. Mr. Weissman indicated that the photo was taken on April 4th by the Arrowhead property manager. He stated that he was the President of the Arrowhead Golf and Tennis Club Homeowner's Association and pointed out that this was not a commercialized area but a conglomerate of residential areas. He asked Council for fairness and courage in denying this request as the residents felt that this would destroy their property values.

Elliott Frimma spoke about the technical aspects of cellular communications and the possible detrimental health effects. He stated that cell towers were unsafe. Ms. Trevarthen objected on the basis of the Telecommunications Act of 1996 which stated that local governments may not consider the health impacts of cellular towers. She added that this issue was not about cell towers, but about a rezoning request to neighborhood commercial. Mr. Connick requested that Council not consider Mr. Frimma's comments in making its decision, although he felt they should be allowed for the record. Mr. Frimma explained the manner in which radiation signals and electromagnetic static traveled and the need and use of boosters. He stated that higher frequencies were needed and that an umbrella effect would result.

Mrs. Naylor, 43 Matador Lane, opposed the rezoning request based on the possibility of birth defects which could result and reduced property values.

Grover Cleveland Baron, Sr., 3100 West Rolling Hills Circle, spoke about the recent requests to install cell towers on the roof of their building. He was opposed as this would devalue the surrounding property.

Cynthia Turni 3100 West Rolling Hills Circle, spoke in support of the Arrowhead residents. She also spoke about the dangers of a cell tower and the resulting reduced property value. Ms. Turni asked Council for its help in preventing this.

Wendy Miller-Yost, 1829 SW 81 Lane, spoke about her concerns for the health of her family and asked Council to deny.

Charles Anthony Goen, Sr. spoke about the property values, which he felt would be in jeopardy.

Steven Damber, 1794 SW 81 Lane, stated that the resident's main concern was to preserve their property values. He felt that a rezoning request should not be for the purpose of accommodating a special purpose.

Micki Baker, 1804 SW 81 Terrace, was opposed to the tower because of the dangers of radiation.

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Ira Moskowitz was concerned about his family's health. He stated that he would have to move if the tower were approved. Mr. Moskowitz indicated that his house was directly in back of the proposed location of the tower.

An unidentified woman spoke in opposition to this request.

Mr. Moskowitz referred to the previously submitted photograph and pointed out the bedroom windows of his family members and the family room window. Mr. Connick indicated that this would be marked as a separate exhibit.

Debbie Durinski, 1749 SW 81 Lane, asked Council to consider what was being emitted in the areas where cell towers were now located. She felt that Council was very careful with trees and parks and facades of buildings, and felt that it should support the residents on this issue.

Edy Morganstern, 1884 SW 81 Lane, stated that by allowing the rezoning, Council would be opening the door for the tower and asked that the request be denied.

Jay Stahl, 5801 Surrey Circle West, indicated that the planning report for the rezoning indicated the intended use as the cell tower. He was opposed to the request and had opposed several other towers in other areas of Davie. Mr. Stahl added that Council had an opportunity to legally deny the request and if the bowling alley was eventually torn down and the petitioner needed to build something else in its place, the rezoning request could be revisited.

Carolyn Goins, 1845 SW 81 Way, felt it was difficult to separate the rezoning request and the cell tower. She would like to see the issue denied.

Joseph Baker, 1404 SW 81 Terrace, opposed the request and felt that the petitioner showed the potential for two more towers, as well.

Joy Yoder, 12610 SW 13 Manor, felt that after listening to the residents, she agreed that health issues were a major concern.

Mr. Mancuda answered questions from Mr. Connick, indicating that most of his practice was devoted to zoning and land use matters and agreed that a cell phone tower would affect property values in the area. He pointed out that there was no basis for this request.

Mayor Venis closed the public hearing.

Ms. Trevarthen asked that the Council look at the zoning map to show the existing zoning in the area and declared that spot zoning was not what was being proposed. She stated that the area was surrounded by commercial zoning and added that the Arrowhead residences were located on commercial zoning. Ms. Trevarthen objected to any discussion regarding the tower and the consideration of health affects in making decisions. She reiterated that this request was for a rezoning, not a cell tower. Ms. Trevarthen added that she did not represent AMF Bowling and was not aware of their plans to redevelop their property. She indicated that Mr. Mancuda could not provide evidence as a witness, as he was representing homeowners, but not a homeowner in the area himself.

Councilmember Truex asked if the petitioner could request this special permit under the existing zoning. Ms. Trevarthen responded in the affirmative. Councilmember Truex asked if the potential failure of the tower, if it blew down, for example, could be considered under the Telecommunications Act. Ms. Trevarthen stated that this was dealt with in the Town's Code and municipalities could provide regulations, but not regarding health impacts.

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Councilmember Clark asked about the development plan details paragraph of the staff report and its reference to the telecommunications tower. Ms. Trevarthen stated that it was a fact and that consideration of this was different than considering whether neighborhood commercial was appropriate for this property.

Mr. Kutney provided clarification regarding the tower in the staff report, stating that this was standard procedure and was not an effort to bring the use into the issue of recommendation. The land use in question was commercial and the B-2 and B-3 categories were consistent with this category. Mr. Kutney indicated that B-2 was recommended to the applicant, as it was the less intense of the two and most appropriate for the site.

Councilmember Truex asked about setbacks and Mr. Kutney indicated that there were specific requirements for a telecommunications tower. Mr. Kutney indicated that this was in Section 12-5063A, which stated that the setback was adherent to the zoning which was 20 feet on all sides, abutting residential zoned properties and 25 feet adjacent to public or private rights-of-way.

Mayor Venis advised that he had spoken to Mr. Weissman and had received several e-mails on this issue. Mayor Venis agreed with Mr. Connick's legal interpretation; however that findings of fact in Council's packet showed that the proposed change would not affect property values which he did not agree with. Mayor Venis stated that he was not in favor of the request.

Vice-Mayor Paul advised that she had spoken with Mr. Weissman and Mr. Frimma on this issue. She felt that there was no reason for this rezoning.

Councilmember Truex stated that he had spoken to Mr. Weissman and the property manager and had received e-mails. He added that he had attended the Planning and Zoning meeting and had met with Ms. Trevarthen at the site. Councilmember Truex believed that this change would adversely affect the living conditions in the neighborhood, as well as property values and felt that the current zoning could be used by the property. He did not feel that the zoning was the most appropriate to enhance the Town's tax base.

Councilmember Clark thanked Mr. Connick for his input and did not support the tower. She advised that she had also spoken to Mr. Weissman and Mr. Frimma, as well.

Councilmember Starkey declared that she had received an e-mail and phone calls. She did not feel that changing this zoning was necessary and added that some of the current zonings needed to be brought up to Code.

Councilmember Truex made a motion, seconded by Vice-Mayor Paul, to deny. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

Mayor Venis recessed the meeting at 9:40 p.m. and reconvened the meeting at 9:45 p.m.

Mr. Connick indicated that he was approached during the recess about the possibility of the application for a special permit being heard. He reported that there was not an entitlement for a tower and the special permit hearing would not be allowed.

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10.5 Dick Coker and Frank Costoya, representing the petitioner, were present. Mr. Coker provided a history of the site and explained the request.

Mr. Costoya displayed an artist's rendering of the front entrance and discussed the amendments to the property including a tot lot, sidewalks on both sides, interlocking pavers and the reduction of one lot.

Councilmember Truex asked what the process would be if this were to be denied. Mr. Coker did not feel that the Central Broward Drainage District would vacate the additional right-of-way for the canal. The utility easement for the use of the general public would probably not be vacated and the bridle path easement may not be vacated by the Town and was given by the developer. Mr. Costoya added that an equestrian bridge would be built so horses could reach Griffin Road.

Planning and Zoning Manager Jeff Katims advised Council about the landscape buffers and the bridle path issues, stating that the reason the Code was changed was to try and eliminate problems that would arise when they were included in the residents' lots. He explained the importance of having perimeter landscape buffers as part of the common area. Mr. Katims felt that the buffering situation could be addressed by way of homeowner's association maintenance of the buffer area, a fence delineating property line and a deed restriction to prohibit alteration of the buffer. Mr. Coker agreed that this was workable and could become part of the homeowner's association documents and he would implement this recommendation if the vested rights were granted.

Mr. Connick clarified intentions and suggested that this be brought back in a more finalized form. Mayor Venis suggested that if these were the only outstanding issues, Council could move forward with this tonight. Mr. Coker pointed out that the petitioner would still need to come back for site plan approval.

Vice-Mayor Paul asked about the size of the smallest lot. Mr. Coker clarified that the smallest lot was the tot lot, which was 26,000 square feet and all others were 35,000 square feet or more with the bridle path and landscape easement, which were part of the lots. He added that the water and road areas were not counted toward lot size.

Councilmember Truex asked what criteria would be used for this decision. Mr. Connick felt it should not be determined as vested rights, but as a variance. He explained the components of vested rights and was not convinced that there was sufficient information regarding the difference between what was required at the time the plat was granted and what would be required today. Mr. Connick felt that the landscaping issue was important to deal with and should be handled as staff suggested.

Mr. Connick recommended that if Council approved the request, the approval should be that there was a vested right, subject to and conditioned upon a covenant running with the land concerning the landscaping and buffer issue with staff's approval, that a document be recorded to that affect, and subject to the full site plan process. Mr. Coker indicated that the petitioner would agree to this recommendation.

Councilmember Clark made a motion to grant the vested rights request subject to the conditions that Mr. Connick stated and that the petitioner agreed to.

Vice-Mayor Paul asked about determining this through a variance. Mr. Coker felt that a variance was a burden to get approved and the hardships were not self-imposed.

Mayor Venis asked if anyone wished to speak for or against the request. As no one spoke, the public hearing was closed.

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Councilmember Truex felt that this issue did not fall into the criteria of "vested rights." He did not feel that governmental action or inaction had caused the situation and would not support this request. Councilmember Truex pointed out that it was the inaction of the applicant that had caused the situation, as the plat approval had expired.

Vice-Mayor Paul stated that she had a problem with this request and felt it was important to stay true to lower density. Mr. Coker felt this development had the lowest density of any R-1 zoning in the area.

Mayor Venis did not feel that density would be increased by granting this as vested rights. The developer had initially given up over four acres and under the new zoning, water was counted as lot size, while under the old zoning, it was not. He felt it was a low density project and felt comfortable with Mr. Katims' suggestions. Mayor Venis pointed out that these would be builder's acres including the easements.

Councilmember Clark advised that she had not met with any representatives of this developer or any staff members regarding this issue. She felt the petitioner had gone through plat approval and did have vested rights. Mayor Venis agreed that this developer was approved under the previous Town code and had the site plan approved.

Councilmember Starkey felt that the petitioner had vested rights after platting. She understood that he had complied with staff and the project did have significant value to the community.

Councilmember Clark made a motion, seconded by Councilmember Starkey, to approve the vested rights subject and conditioned upon the applicant's indication voluntarily agreeing to meet the landscaping requirements as indicated by staff and the buffering as staff will determine either a fence or a wall and that there be a covenant running with the land which indicated that the landscaping area would be maintained by the association. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - no; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - no. (Motion carried 3-2)

5. MAYOR/COUNCILMEMBER'S COMMENTS

6. TOWN ADMINISTRATOR'S COMMENTS

7. TOWN ATTORNEY'S COMMENTS

No comments were provided.

9.1 Town Clerk Muniz read the ordinance by title. Mayor Venis advised that a public hearing would be held on April 18, 2001.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Councilmember Clark made a motion, seconded by Vice-Mayor Paul, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

9.2 Town Clerk Muniz read the ordinance by title. Mayor Venis advised that a public hearing would be held on April 18, 2001

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

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Councilmember Truex made a motion, seconded by Councilmember Clark to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

9.3 Town Clerk Muniz read the ordinance by title.

Mr. Connick distributed an update and explained the ordinance. He asked for clarification on what the landscaping should be and stated that Mr. Mele had agreed.

Dennis Mele, representing the applicant, clarified that the only change pertained to SW 36th Street, which should say "SW 36th Court." Mayor Venis indicated that the plan was to meet with residents regarding landscaping needs and Mr. Mele agreed.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

9.4 Town Clerk Muniz read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Councilmember Clark made a motion, seconded by Vice-Mayor Paul, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

9.5 Town Clerk Muniz read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Councilmember Truex made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

9.6 Town Clerk Muniz read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Councilmember Truex made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

Mayor Venis opened the public hearing.

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10.1 Town Clerk Muniz read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Councilmember Starkey made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

10.2 Town Clerk Muniz read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

10.3 Town Clerk Muniz read the resolution by title.

Mayor Venis asked if anyone wished to speak for or against the resolution. As no one spoke, the public hearing was closed.

Councilmember Clark made a motion, seconded by Vice-Mayor Paul, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

Mayor Venis advised that item 8.4 was withdrawn by staff and item 10.6 was requested to be tabled until May 2, 2001.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Venis announced that items 10.7 and 10.8 needed to be tabled to April 18, 2001.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Venis advised the item 12.1 was requested to be tabled until June 6, 2001.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark to table. In a voice vote, all voted in favor. (Motion carried 5-0)

8. CONSENT AGENDA

Minutes

8.1 January 9, 2001 - Special Meeting

Proclamation

8.2 Days of Remembrance Week (April 15 - 22, 2001)

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Home Occupational Licenses

- 8.3 Action Home Care Inc., 4271 SW 106 Terrace
- 8.4 Kate's Corner Family Child Care Home, 10940 SW 29 Court
- 8.5 Tri County Salt and Service, 5087 SW 82 Avenue

Resolutions

- 8.6 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND SOUTH POST INCORPORATED; PROVIDING FOR THE ISSUANCE OF BUILDING PERMITS WHILE PLATTING IS IN PROGRESS RELATED TO THE SOUTH POST PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. (DA 1-1-01, 4200 Shotgun Road) (tabled from March 21, 2001)
- R-2001-80 8.7 **EMS COALITION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING PARTICIPATION IN THE GROUP CITY EMS COALITION CONSISTING OF VARIOUS MUNICIPALITIES OF BROWARD COUNTY; AUTHORIZING THE EXPENDITURE OF MONEY TO FUND THE PROGRAMS OF THE COALITION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (\$2,527)
- R-2001-81 8.8 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BIDS FOR JANITORIAL SERVICES FOR TOWN HALL BUILDINGS. (Jigga Cleaning Service, Inc. and Nelson & Son Janitorial Service - \$41,184)
- R-2001-82 8.9 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR PICK UP TRUCKS, STATE OF FLORIDA BID 070-001-99-1, BACKHOES, STATE OF FLORIDA BID 760-001-99-1, AND DUMP TRUCKS, STATE OF FLORIDA BID 070-700-00-1. (Jack Caruso Regency Dodge, Trax Inc. and King Truck Center - \$333,347)
- R-2001-83 8.10 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR PAVEMENT MARKING AND STRIPING, SOUTHEAST FLORIDA CO-OP BID #H-38-99. (Highway Technologies - \$25,000)
- R-2001-84 8.11 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR ASPHALT OVERLAY, TOWN OF DAVIE BID B-00-62. (General Asphalt Co. - \$198,000)
- R-2001-85 8.12 **NEW HIRES** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE HIRING OF THREE CREW LEADER POSITIONS WITHIN THE BLUE COLLAR UNIT ASSIGNED TO THE CAPITAL PROJECTS DIVISION AND PROVIDING AN EFFECTIVE DATE.

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- 8.13
R-2001-86 **PLAT REVISION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING A REVISION TO THE RESTRICTIVE NOTE OF THE "STIRLING TRAIL WEST PLAT", AND PROVIDING AN EFFECTIVE DATE. (DG 10-3-00, 5995 University Drive)**
- 8.14
R-2001-87 **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING VARIOUS ARCHITECTURAL AND ENGINEERING FIRMS TO PERFORM CONTINUING SERVICES AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AGREEMENTS FOR SUCH SERVICES.**
- 8.15
R-2001-88 **AMENDED AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO ENTER INTO AN AMENDMENT TO THE LARGE USER WASTEWATER AGREEMENT BETWEEN THE CITY OF FORT LAUDERDALE AND THE TOWN OF DAVIE; AND PROVIDING FOR AN EFFECTIVE DATE.**
- 8.16
R-2001-89 **PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A SUBDIVISION PLAT AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN SEAL TO SUCH PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 9-2-00, Perez Estates, 10830 SW 23 Street) Planning and Zoning Division recommended approval subject to the planning report; Planning and Zoning Board recommended approval subject to the correction of the "typo" in the plat; subject to an executed Recreational Impact Fee Agreement; and approval for sufficient capacity of the regional road network as determined by Broward County**
- 8.17
R-2001-90 **PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A BOUNDARY PLAT TITLED, "GLENN'S AUTOMOTIVE CENTER", AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN SEAL TO SUCH PLAT; AND PROVIDING FOR AN EFFECTIVE DATE. (P 11-1-00, Glen's Automotive) Planning and Zoning Division recommended approval; Planning and Zoning Board recommended approval**
- Site Plans*
- 8.18 **SP 4-2-00, Armadillo Square, 4614 SW 64 Avenue (Griffin Road Corridor) (tabled from February 21, 2001) Planning and Zoning Division recommended denial; Site Plan Committee recommended denial**

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- 8.19 SP 8-6-00, Denny's Restaurant @ Regency, 14830 Griffin Road (PUD) Planning and Zoning Division recommended approval subject to the planning report; Site Plan Committee recommended approval subject to staff's comments and that the landscaping be, as much as possible, xeriscape; the applicant was to work with Mr. McClure on the irrigation system before submitting for permit; and that the irrigation system be a drip system wherever possible

Site Plan Modification

- 8.20 SP 5-1-00, Griffin 117 Vamel/Western Plaza, 6530, 6550, and 6570 Griffin Road (Griffin Road Corridor) Planning and Zoning Division recommended approval subject to the planning report; Site Plan Committee recommended approval based on staff's recommendations; that for item number two of those recommendations, the Committee would allow the owner to keep the existing front doors; that the seven Cassias be replaced with Hibiscus Standards, to be six feet tall; to recommend that the rear wall be a "prefab" wall and that it be placed between the Black Olive trees which were existing and which were to remain on the property; that the perimeter hedge be a Viburnum species; that the six-foot height of the wall was conditional upon the approval of the residents

Vice-Mayor Paul asked that items 8.6 and 8.18 be removed from the Consent Agenda. Councilmember Truex asked that items 8.7, 8.9, 8.16 and 8.20 be removed.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark, to approve the Consent Agenda minus those items. In a voice vote, all voted in favor. (Motion carried 5-0)

8.6 Dennis Mele, representing the applicant, advised that there was a concern at the last meeting about whether this would interfere with the School Board's plan for a middle school site. He spoke about the two proposed sites for the school - one on the east side of Shotgun Road and one on the west side. Mr. Mele explained that either site was offered to the School Board and the petitioner must agree to give the School Board either one before the plat could be approved and building permit requests would follow.

Vice-Mayor Paul suggested that a copy of Mr. Mele's commitment letter and a response in writing from the School Board be submitted to the Town, indicating that they would choose one of these sites. Mr. Mele advised that before the plat could be approved, the deed for the site would be given to the School Board. He agreed to provide a copy of the final County development review report to Vice-Mayor Paul and was certain that the School Board would choose one of the sites.

Mr. Kutney was not sure that the Facilities Department of the School Board would issue a letter of commitment to use one of the parcels. He advised that this agreement could be approved tonight because the petitioner still had the responsibility to get site plan approval, which would ensure their compliance. Mr. Mele disagreed and felt that the matter was time sensitive as the plat would be on the County Commission's agenda next month. He pointed out that a building permit could not be issued until site plan approval, so there was no risk to the Town.

Mr. Connick stated that the risk was evident in that the agreement would allow the petitioner to go ahead with 75 permits before the plat was recorded. He said that if plat approval did not ensue in a period of time, the Town could require the builder to tear down

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the construction that had occurred in the interim. Mr. Connick suggested that Council wait on this determination. Mr. Mele advised that the petitioner would be required to post a bond with the County prior to building to provide for this circumstance. He added that each tri-party agreement contained the same language and the issue they had been asked to address was whether action on these permits would keep the School Board from having the option to choose either site. Mr. Mele stated that they had addressed that issue, as requested by Council and asked it to approve the resolution.

Vice-Mayor Paul felt that the tri-party agreement concept may not always be in the best interest of the Town, as when they signed off on something like this, the Town lost control of the project. Mr. Mele pointed out that the Town had control by virtue of the need for site plan approval before building permits could be issued.

Councilmember Clark felt that all questions were addressed by the petitioner in a sufficient manner. She did not feel comfortable that this had been going on for so long with no decision being made.

Mr. Mele confirmed that the School Board indicated it would decide on one or the other of the proposed sites on Shotgun Road. Mr. Mele advised that there was no other property owner who owned enough property and was doing residential development.

Mayor Venis suggested that the School Board put this intention in writing. He asked if it would affect the petitioner's schedule with Broward County if the resolution was deferred until the next meeting. Mr. Mele responded that it would.

Vice-Mayor Paul made a motion, seconded by Councilmember Truex, to table to the next meeting [April 18, 2001] so that Council could have a copy of the commitment letter and to give either her or staff the opportunity to get something in writing from the Facilities Department. In a voice vote, with Councilmember Clark dissenting, all voted in favor. (Motion carried 4-1)

8.7 Councilmember Truex had questions about why the Town would be joining and what the expenditures would be geared toward. Fire Chief Don DiPetrillo stated that there were 6 cities originally as part of the Coalition in 1995 and it had grown to 17. He enumerated the benefits of the Coalition, which obtained rebates for taxes for some cities and increased the number of available units in the cities. Chief DiPetrillo explained the issues before this coalition, which included litigation regarding licensing regulations, the ability to provide all types of EMS services, 911 enhancements, assessment of whether this included fire and rescue and what level of ambulance service would be required. He felt this was important.

Councilmember Truex made a motion, seconded by Vice-Mayor Paul, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

8.9 Councilmember Truex asked if the equipment was the same as in Ft. Lauderdale's bid and asked what the benefit was of not doing another bid. Public Works/Capital Projects Manager Bruce Bernard advised that this was a State bid and Ft. Lauderdale had purchased different options on their trucks than what the Town wanted to purchase.

Budget and Finance Director Christopher Wallace stated that there would be a benefit in doing a separate bid if it was thought the Town could do better. He felt there was no reason to believe that it would be better than piggybacking and added that State prices sometimes allowed negotiating with vendors, although with tractors there was a single

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vendor and piggybacking was appropriate. Mr. Wallace advised that a bid could always be done, but the down side was that time would be lost when the equipment could be in use and the price may not be as good as what had already been provided to another municipality. He advised that this equipment was for the purpose of beginning the drainage work and timeliness was important. Mr. Wallace advised that this was a fairly recent bid and a better price was speculative.

Vice-Mayor Paul felt that the commitment made to the community for drainage work was important to honor.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark, to approve. In a voice vote, with Councilmember Truex dissenting, all voted in favor. (Motion carried 4-1)

8.14 Mayor Venis spoke about Pillar Consultants and commended them for the job it had done with consulting and inspections. He pointed out that Pillar was a local firm and Mr. Kutney had spoken highly of them. Mayor Venis asked why Pillar did not made the cut. Town Engineer Dan Arner advised that this was done under the Consultants Competitive Negotiations Act, which required oral and written presentations. He explained the process and the basis used for having chosen the firm. Mayor Venis was disappointed by the decision and spoke in favor of Pillar as it had a good track record with the Town. He reminded all of what Pillar had been through with the Town in conflict of interest issues, indicating that they were always on time and a local firm.

Mr. Arner felt that if the ranking was to be changed, the bid would have to be redone and advised that all factors had been considered.

Councilmember Clark made a motion, seconded by Vice-Mayor Paul, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

8.16 Councilmember Truex advised that Ruth Dryer had a question about drainage but she was not present.

Councilmember Truex made a motion, seconded by Councilmember Clark, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

8.18 Bill Laystrom, representing the petitioner, was present.

Councilmember Starkey stated that she had met with the applicant and Michelle Mellgren.

Mr. Laystrom spoke about the site plan for a Walgreens store and advised that the primary issue had been the parking along Davie Road and Griffin Road. He explained the various meetings and those who had been involved. Mr. Laystrom indicated that the applicant had added a second floor to the building at the suggestion of staff so the site could be used in the future for office space, if necessary. He added that there were three roads abutting this property, which made this a very difficult site. He stated that this site would stand as a cornerstone for redeveloping the entire area, something all agreed was needed. Mr. Laystrom stated that the applicant would provide pavers for pedestrians, add an entrance feature to the corridor, including seating for buses, as well as landscaping and dumpster detail suggested by staff.

Michelle Mellgren, also representing the applicant, explained her experience in urban planning and pointed out that this was really a land use issue. She gave a history of the Griffin Road corridor beginning in 1995 and the plans the Department of Transportation

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(DOT) was proposing which included widening of the road with no aesthetic considerations. Ms. Mellgren stated that the results were Code amendments for buffering and setbacks, as well as a Griffin Road corridor study. She advised that the Community Redevelopment Agency (CRA) ruled this location to be unique and although buildings were required to be set on the property line, allowances were provided for landscape buffers and parking. A variance was granted and the resulting site plan, approved by Council, was what was proposed today. Ms. Mellgren read the corridor standards, which indicated that the placement of buildings and landscape could be changed in a policy ruling by Council, when a change was found to be in the best interest of the Town. She described the differences in parking needs, entrances and egress locations of office and retail and enumerated the hardships associated with this site and its development. Ms. Mellgren made a reference to what she called "eye candy" and spoke about a social equity issue and the needs of low to middle income residents in this area. She felt strongly that the need for redevelopment was paramount and asked Council to carefully consider the service this site would provide to those living within the CRA. Ms. Mellgren asked Council to do something to invite redevelopment in the Town.

Mr. Laystrom showed a rendering of how DOT changes had impacted this site. He asked Council to take notice of the Town's Land Development Code as well as the Land Use Plan. He reported that since no landscaping was left after DOT's actions, the petitioner asked for a variance, which was granted in May 1999. He indicated that the Code allowed for parking, although it specified parallel parking and the site called for perpendicular. Mr. Laystrom pointed out that because the site was below grade, the cars would be below Griffin and Davie Roads, revealing only landscaping and the tops of the cars. He asked for Council's approval.

Councilmember Truex asked if alcohol sales were planned for this site and asked how much the applicant had received from DOT. Mr. Laystrom advised that alcohol would not be sold and could be included as a deed restriction or declaration if Council needed a guarantee. He advised that the petitioner had received \$800,000.

Mr. Katims reported that there were many points to cover and the proposal seemed fine; however, it did not comply with staff requirements. He specified the differences in this plan from the one provided in December. One consideration was that this issue would be monitored nationally, as this was not unique to Davie as more and more municipalities had adopted innovative zoning ordinances to create development form. Mr. Katims stated that there were other areas in Florida that were dealing with Walgreens where special ordinances were involved. He felt that there would be much at stake in this decision. He added that site plans were rarely denied and the issues with this site were not technical and would not require a technical denial. Mr. Katims pointed out that the location was critical as it was at the entrance to the downtown area and the intent of the ordinance was to create urban form with buildings close to the street, of multiple uses and which provided some height. He reported that the impact would be great as the decision could set a negative precedent and added that the building did not comply with the standard for western theme. Mr. Katims pointed out that Walgreens was unique as it needed a drive-thru, making the floor plan not flexible. Staff felt that the site could be developed to code and that the user was driving the site design.

Neal Kalis, CRA Chair, stated that he respected Mr. Laystrom and Ms. Mellgren, and found it difficult to speak in opposition of them. He felt that the site plan was not in

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agreement with CRA's vision of how this parcel should be developed. He spoke about Ms. Mellgren's comment that there was a need in the community for a Walgreens facility and pointed out the close proximity of local Eckerds and other similar stores. Mr. Kalis felt that redevelopment was vitally important, but the CRA had voted unanimously to deny this project. He advised Council to look at the long-term vision for the area. Mr. Kalis did not feel that this Walgreens presented a different look from others, pointing out that the applicant needed to design for the automobile. He added that it had been compensated adequately for changes in elevation and damage to the remaining building, then came to the Town for variances, which were granted as a help to the property owner. Mr. Kalis stated that this was Council's decision and the CRA would work with the owner to assist where it could.

Mr. Kutney pointed out that the western theme design was not an issue as he and Mr. Katims would follow what was implemented into Griffin Road. He stated that the Town could be very proud of how staff and residents worked to gain a consensus on this project. Mr. Kutney disagreed with the idea that parking must be in front for retail and pointed out that a proposed Walgreens in West Palm Beach was denied as it did not meet with their intentions for the area. He stated that the ordinance was heavy on residential, with a goal to increase pedestrian activity. He appreciated the adjustments attempted by Mr. Laystrom and Ms. Mellgren, although Walgreens did not comply.

Mayor Venis asked if anyone wished to speak for or against the request.

Bob Waitkus, 4720 SW 72 Avenue, spoke against the site plan. He stated that many cities had taken back control of redevelopment with good result and urged Council to vote against it. This was a short-sighted plan that did not have the future of Davie in mind.

Joe Cosner, 4451 SW 77 Avenue, spoke about the community effort that went into the design of the Griffin Road corridor and mentioned a petition that was signed opposing this proposal. Most residents were not in support of another drug store or a building with a drive-thru feature. Mr. Cosner pointed out that the goal for the area was to provide unique buildings and this objective should not be deviated from. He stated that the petitioner had come back with the site plan several times, but had not changed anything.

Bruce McGee spoke about the current look at the entrance to the north and south ends of Town, which he felt seemed distressed with buildings boarded up and looking run down. He was in favor of the site plan and felt it was best for Davie. Mr. McGee stated that the investment in the Town by this petitioner should not be denied. He stated that this would be a heavily traveled thoroughfare with many lanes of traffic, and cars would be the means of transportation at that intersection, not pedestrians. Mr. McGee advised that the vision was unrealistic and the vision needed to be changed.

James Clodfelder, owner of Armadillo Square shopping center, felt compelled to correct some of the misstatements. He stated that a variance was sought in 1999 and added that this was to change the green space from 30% to 19% if it was redeveloped. This was the only variance that was granted just before the Griffin Road ordinance was passed. Mr. Clodfelder explained that some tenants had planned to leave because of inadequate parking and the run down nature of the corner. He spoke about DOT's litigation in detail and economic hardships suffered as a result of their project. Mr. Clodfelder also spoke about untiring efforts in trying to work with the Town and the unsatisfactory results. He advised that he had met with the presidents of the homeowner's associations of the communities that abut his property. Each resident and board member had expressed a need for this

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Walgreens and spoke in support of the project; however, could not stay this late at night to speak at the meeting. Mr. Clodfelder reported that Walgreens was committed to spending an extra \$400,00 to \$500,000 on the look of the building to meet the Town's standards. He spoke about the many offers from developers over the last years, which had to be turned down as they presented projects not amenable to the Town.

Councilmember Clark advised that she had spoken with Mr. Clodfelder.

Mr. Laystrom summarized his earlier statement and stated that a pedestrian friendly site would make this site important as the closest drugstore was one and a half miles away. He spoke about the changes guaranteed to the facade, the changes to the drive-thru, the provision for pedestrian pavers and the results of the variance that was obtained. Mr. Laystrom did not agree with this being the first building for this ordinance, but felt this was the last building that got the variance so that it could rebuild this site. He advised that if Council relied on the variance, there would be a building further away from the parking and no entranceway. Mr. Laystrom discussed the parking problems and the compromises that were needed. He explained the details of the difference between the 50 feet from the street provided by Code and the 70 feet that was proposed.

Vice-Mayor Paul asked about the addendum that staff had raised and Mr. Laystrom advised on how the petitioner stood, which was to agree except for the number of rows of parking on one side.

Councilmember Truex stated that this was a long process involving property owners and residents and the consensus resulted in the Griffin Road ordinance. He felt that it was important to support the work that had been done by being true to this ordinance and to have the courage to do so. Councilmember Truex agreed with Mr. Katims that this was a key parcel and stated that the Florida vernacular was not well defined, but felt that what was proposed did not fall into that category or into the western theme. He advised that this was a major east west corridor and did not compare to the Winn-Dixie site and was not distressed. Councilmember Truex added that both staff and the CRA were against this plan. He referred to Ms. Mellgren's reference to "eye candy" and pointed out that all development needed to be aesthetically pleasing. Councilmember Truex felt strongly that Council should deny the request.

Councilmember Clark stated that she was torn with this decision as she felt that this area needed economic redevelopment. She stated that many places in downtown Davie were ugly and residents were tired of having unsightly buildings. Councilmember Clark stated that in the future she would be coming to Council for support in other redevelopment projects in her district and if this request was denied tonight, she felt the corner would remain undeveloped. She felt that some insisted on keeping the vision and refused to admit that this site had special requirements and was difficult to develop.

Councilmember Truex encouraged Councilmember Clark to imagine what that corridor could be like, instead of imagining the worst. He stated that everyone would have to work together to make it happen. Councilmember Truex suggested that if this would be denied the petitioner could come back with something better. Councilmember Clark felt that the Town could wait ten years for correct development.

Mayor Venis asked Mr. Kutney if the architecture was the same on all sides of the building. Mr. Kutney stated that the applicant would try to comply with this. He added that they waited until the roadway was functioning before having the architecture in place,

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which would take about three months. Mayor Venis stated that the applicant was willing to comply and confirmed with Mr. Kutney that this could be attached as a condition. Mr. Kutney felt that Dover Kohl could come in and work with the applicant.

Mr. Katims pointed out that the Code allowed the petitioner to meet the western theme, but the proposed building did not meet Florida vernacular or Western theme. Mr. Laystrom stated that the building did not show western theme as this was approved at the same time the ordinance was approved.

Councilmember Starkey asked what was to prevent cars from driving off into the lot, as it dipped down so low. Mr. Laystrom suggested a small retaining wall, in brick, if Council thought that was a concern. He added that there was no right-of-way for a sidewalk so the sidewalk would be right on the road. Ms. Mellgren stated that Mr. Clodfelder had offered an additional five feet as a buffer between the road. Mr. Laystrom stated that the landscaping would be increased to 30%.

Vice-Mayor Paul felt that some of the major issues were still outstanding. She advised that it was important to see the property developed, but it was equally important to be true to the ordinance and the vision. Councilmember Starkey felt that the site was nearly there and many of the items had been addressed. Mayor Venis agreed that much progress had been made. He suggested that the applicant meet with staff again to iron out some of the other issues. Councilmember Clark stated that the frontage road and the parking were the only issues remaining. Councilmember Truex suggested that this needed to go back to CRA and through site plan process. He suggested denying the request. Mayor Venis indicated that he would like to see this item tabled as the petitioner had worked hard on compromises.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark to table until the second meeting in May (May 16, 2001). In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - no. (Motion carried 4-1)

Councilmember Truex stated that he would like to see a workshop meeting with residents. Mr. Laystrom stated that he would be available to meet with any resident.

8.20 Councilmember Truex stated that he liked staff's recommendations for the western style doors. Vice-Mayor Paul stated that the doors had very thin frames and a wood frame would not work. The wall in the back was mentioned so they could maintain the existing trees.

Raul Perez, representing the petitioner, stated that the petitioner had received approval of the site plan, then the ordinance was approved and adjustments had been made according to staff's recommendations. The six-foot wall was requested so it was not too high and the black olive trees had a root system that could have been damaged with a higher wall.

Councilmember Truex asked about the western style door. Mr. Perez stated that an additional facade on the doors could not be done as the frames would need to be replaced. He agreed that it could be done, but would be very expensive and added that the windows, stucco, and trim would all be western theme.

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Councilmember Truex made a motion, seconded by Councilmember Clark, to approve with the staff's and the Site Plan Committee's recommendations with the exception that the height of the wall be per Code and the western style doors be required. In a voice vote, all voted in favor. (Motion carried 5-0)

7. Mr. Kiar distributed a memorandum and a letter from Mrs. Kuegler's attorney. He advised that Council voted to pay Mr. McGee's fees and court costs and Mr. Kiar had since learned that a municipality may only expend funds for what was a public purpose, per an Attorney General's Opinion. He advised that on March 26th, a memorandum was issued stating that the attorney's fees could not be paid, as there would be no public benefit to the municipality by paying these fees. Mr. Kiar indicated that this was a unique situation and, on Mr. McGee's behalf, a legal opinion in Washington was sought to confirm. Mr. Brady sent a legal opinion, which included a provision for a good faith basis for claim for slander of title against the Town by any property owners, and agreed with the interpretation of the law. Mr. Kiar indicated that Mr. Brady had indicated that court costs could be paid and advised that the motion from last meeting needed to be reconsidered.

Mr. McGee stated that "public purpose" was a broad term and felt it appropriate that the residents be reimbursed. He stated that what the Town did from the onset was avoidable as the litigation was initiated and pursued. Mr. McGee stated that this should never have gone to court and it was not fair for the Town to make the residents pay for what they went through.

Mr. Connick stated that the attorneys were in support of Council and had tried to find a way to uphold this decision. He stated that given their review of the law, it could not be justified. Although he wanted very much to uphold their ruling, Council did not have the legal power to do it.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark to reconsider legal fees granted at the last meeting. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Clark made a motion, seconded by Councilmember Truex, to approve \$1,790.10 in revised fees. In a voice vote, all voted in favor. (Motion carried 5-0)

9. PUBLIC COMMENTS

Ordinances - First Reading (Public Hearing to be held on April 18, 2001)

9.1 **BUDGET REVISION - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE BUDGET FOR THE TOWN OF DAVIE FOR THE FISCAL YEAR 2001 BY PROVIDING FOR SUPPLEMENTAL APPROPRIATIONS TO COVER UNANTICIPATED OR UNBUDGETED EXPENDITURES.**

This item was approved earlier in the meeting.

9.2 **EASEMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING A UTILITY EASEMENT FROM TOWN OF DAVIE, AND PROVIDING AN EFFECTIVE DATE. (VA 8-1-00, FPL Davie Road Extension)**

This item was approved earlier in the meeting.

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- 9.3 **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT, TO E, ESTATE DISTRICT, OF THE TOWN OF DAVIE CODE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 11-2-00, H.J. Zimmerman & Assoc./South Post, Inc. 4200 Shotgun Road)

This item was approved earlier in the meeting.

- 9.4 **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT, TO R-3, LOW DENSITY DWELLING DISTRICT, OF THE TOWN OF DAVIE CODE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 1-3-01, Phoenix III Corporation/Speyer, 5401 SW 82 Avenue)

This item was approved earlier in the meeting.

- 9.5 **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT, TO B-2, COMMUNITY BUSINESS DISTRICT, OF THE TOWN OF DAVIE CODE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 1-4-01, Laystrom/Curcie, 5990 SW 82 Avenue)

This item was approved earlier in the meeting.

- 9.6 **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT, TO B-2, COMMUNITY BUSINESS DISTRICT, OF THE TOWN OF DAVIE CODE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 1-5-01, Laystrom/Farias and Geiserman, 5990 SW 82 Avenue)

This item was approved earlier in the meeting.

10. PUBLIC HEARINGS

Ordinances - Second and Final Reading

- 10.1 **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, SECTION 12-208, ENTITLED "REQUIREMENTS FOR OFF-STREET PARKING, (E), OVERFLOW AREAS," TO CORRECT AN ERROR RESULTING FROM ORDINANCE 91-33; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB (TXT) 3-1-01)

This item was approved earlier in the meeting.

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- 10.2 **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,**
2001-19 **CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE**
 TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT, TO B-2,
 COMMUNITY BUSINESS DISTRICT, OF THE TOWN OF DAVIE CODE;
 AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH;
 PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE
 DATE. (ZB 10-1-00, 5801 South University Drive)

This item was approved earlier in the meeting.

Resolution

- 10.3 **REVISED FEE SCHEDULE - A RESOLUTION OF THE TOWN OF DAVIE,**
R-2001-91 **FLORIDA, REVISING THE FEE SCHEDULE FOR THE TACKLE FOOTBALL**
 AND TACKLE CHEERLEADING PROGRAM AND APPROVING A FEE
 INCREASE OF \$30.00 WHICH WOULD BE DEPOSITED TO THE FOOTBALL
 REVENUE ACCOUNT.

This item was approved earlier in the meeting.

Quasi Judicial Items

- 10.4 **REZONING - ZB 1-1-01, Crown Castle/AMF Bowling Centers, Inc., 8200 West**
 State Road 84 (from B-2A, Old Code to B-2) (tabled from March 7, 2001)
 Planning and Zoning Division recommended approval; Planning and Zoning
 Board recommended denial

This item was denied earlier in the meeting.

Vested Rights

- 10.5 **The Costoya Group Inc./Carmco Inc., 3500 SW 130 Avenue (Vista Del Lago**
 Plat)

This item was approved earlier in the meeting.

Items to be tabled

- 10.6 **PETITIONER REQUESTING A TABLING TO MAY 2, 2001**
 REZONING - ZB 1-2-01, Ramos/Parkway Christian Church, 1200 South
 Flamingo Road (from CF to CF, amending the Declaration of Restrictions)
 (tabled from March 7, 2001)

This item was tabled earlier in the meeting.

- 10.7 **PLANNING AND ZONING BOARD TABLED TO APRIL 11, 2001;**
 COUNCIL CAN TABLE TO APRIL 18, 2001

VARIANCE - V 1-3-01, The Costoya Group Inc./Carmco Inc., 3500 SW 130
Avenue (R-1) (tabled from March 21, 2001)

This item was tabled earlier in the meeting.

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**10.8 PLANNING AND ZONING BOARD TABLED TO APRIL 11, 2001;
COUNCIL CAN TABLE TO APRIL 18, 2001**

VARIANCE - V 2-1-01, Willow Acquisitions, LLC, 15700 Pointe West Drive (BP)

This item was tabled earlier in the meeting.

11. APPOINTMENTS

11.1 Davie Water and Environmental Advisory Board (one exclusive appointment - Councilmembers Starkey and Truex; term expires December 2001)

Councilmember Starkey appointed Tom Green. Councilmember Truex deferred his appointment

11.2 Davie Agricultural Advisory Board (one exclusive appointment - Councilmember Starkey; term expires February 2002)

Councilmember Starkey appointed Barbara Spiece.

11.3 Budget Advisory Committee (one exclusive appointment - Vice-Mayor Paul; term expires December 2001)

Vice-Mayor Paul appointed Dr. Kerry G. Waldee.

11.4 School Advisory Board (two exclusive appointments - Councilmember Truex and Mayor Venis; one exclusive appointment - Councilmember Starkey; terms expire March 2002)

Mayor Venis deferred his appointments. Councilmember Truex appointed Greta Guera and deferred his second appointment. Councilmember Starkey appointed Alice Harrington.

11.5 Joint Economic Development and Steering Committee (one non-exclusive appointment of one Councilmember; term expires August 2001)

Vice-Mayor Paul made a motion, seconded by Mayor Venis, to appoint Councilmember Starkey. In a voice vote, all voted in favor. (Motion carried 5-0)

11.6 Community Redevelopment Agency (one exclusive appointment - Councilmember Starkey; member shall either reside or engage in business within the jurisdiction of the Town) (term expires April 2005)

Councilmember Starkey appointed Neal Kalis.

11.7 Unsafe Structures Board (non-exclusive appointments - appointment of an attorney, real estate appraiser and a citizen with experience and background in the field of social problems) (terms expire April 2004)

Vice-Mayor Paul made a motion, seconded by Mayor Venis. to recommend attorney Alan Koenigsberg. In a voice vote, all voted in favor. (Motion carried 5-0)

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- 11.8 Youth Advisory Board (three exclusive appointments per Councilmember; terms expire April 2002)

Councilmember Truex appointed Donell Johnson, Jr. and deferred his other appointments. Vice-Mayor Paul appointed Bret Eglersma, Megan Freemyer, and Todd Yoder. Mayor Venis and Councilmember Clark deferred their appointments. Councilmember Starkey appointed Allie Caldwell and deferred her other appointments

12. OLD BUSINESS

- 12.1 30th Street Pocket Park

This item was tabled earlier in the meeting.

13. NEW BUSINESS

- 13.1 Renaming Pine Island Park

- 13.2 Management Efficiency Study (Councilmember Starkey)

These items were not discussed due to the lateness of the hour.

14. ADJOURNMENT

There being no objections or further business, the meeting was adjourned at 2:38 a.m. p.m.

APPROVED _____

Mayor/Councilmember

Town Clerk